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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,077	03/12/2004	Brent Hughes	8151	8515

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ARRIS INTERNATIONAL, INC
3871 LAKEFIELD DRIVE
SUWANEE, GA 30024

EXAMINER

DESIR, PIERRE LOUIS

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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02/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/799,077

Applicant(s)

HUGHES, BRENT

Examiner

Pierre-Louis Desir

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argue that the Examiner appears to have repeated the same arguments made in previous office action in continuing the rejection. In response, Examiner repetition of the arguments is a direct response to what is presented in both the claims and the remarks received from the Applicants.

Applicants also argue that an advantage arrangement provided in the specification as related to claim 1 and in reference to fig. 1 of the present application is not disclosed by the cited reference. In response, Examiner asserts that that specific arrangement is not present in the claim. And, Examiner want to respectfully remind Applicants that Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicants further argue that Garrabrandt does not teach that the transceiver 144 enters low power mode until awakened.

Examiner respectfully disagrees with Applicants. Garrabrant discloses a method wherein at least one portion put into sleep mode includes main processor circuitry (i.e., processor 131) and radio frequency communication circuitry (i.e., DSP 136 for processing data to be transmitted or data that are received via transceiver 144, and which measures signal strength fluctuation of a wireless connection through the transceiver, which provides the wireless communication radio frequency (RF) link and the communication circuitry, which provides the receiving and transmitting circuits required for communication for the serial and the infrared port) (see fig. 4, col. 7, line 26-col. 9, line 4, and col. 9, lines 36-49).

Applicants also argue that neither Skinner nor Garrabrant disclose scanning a plurality of possible RF channels using a processor having RF circuitry to detect whether an RF channel is present that can be made active; placing the processor into a sleep mode if an active RF channel or an RF channel that can be made active is not detected...

In response, Examiner wants to first, respectfully remind applicant that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). As disclosed in the previous rejection, Garrabrant discloses a method comprising determining whether an active radio frequency ("RF") communication channel is present at a network connection (i.e., periodically measuring the signal strength fluctuations in a wireless connection) (see abstract, also refer to col. 3, lines 15-17); placing the processor into a sleep mode if an active RF channel or an RF channel that can be made active is not detected (see abstract, figs. 4-5, col. 3, lines 17-20, col. 7, line 26-col. 9, line 4, and col. 9, lines 36-49); starting a timer set for a predetermined period if an active channel or one of the plurality of possible RF channels is not detected (i.e., the main processor send a command to the DSP which includes a sleep time) (see col. 3, lines 15-17); and awakening the processor from sleep mode when the predetermined period has elapsed (i.e., the internal timer of the DSP periodically (as specified by the sleep time) awakens the DSP) (see col. 3, lines 21-24). Garrabrant also discloses a method comprising a processor having RF circuitry (see figs. 4-5, col. 7, line 26-col. 9, line 4, and col. 9, lines 36-49). Garrabrant does not specifically disclose a method comprising scanning a plurality of possible RF channels to detect whether an RF channel is present that can be made active. Skinner discloses a method comprising scanning a plurality of possible RF channels using a processor having RF circuitry to detect whether an RF channel is present that can be made active (i.e., broadcast channels used by the wireless network are scanned by the DSP to identify channels that have sufficient strength) (see abstract, fig. 4, and col. 5, line 56-col. 7, line 1).

As related to claim 5, Applicants argue that Garrabrandt does not disclose an RF energy detecting means. Examiner respectfully disagrees. Garrabrant discloses that If the DSP detects fluctuation that exceeds the threshold levels, the DSP will interrupt or awaken the main processor to act upon this data. If no threshold crossing fluctuations are detected, the DSP will return to the low power mode until the next specified time for monitoring the RSSI (see col. 3, lines 24-26). Also, Skinner discloses that broadcast channels used by the wireless network are scanned by the DSP to identify channels that have sufficient strength. When the DSP identifies acceptable channels, it wakes up the main processor and identifies the channels having sufficient signal strength (see abstract). Therefore, the rejection stands. Also, Examiner wants to respectfully reminds Applicants that broadly written claims are broadly interpreted by examiner.

In response to Applicants' argument as related to claim 8, the applicability of the case law does not affect the Applicants previous arguments that a DSP is more sophisticated than a micro controller. Being more sophisticated than a microcontroller is not relevant. the applicability of *re Van Guens* for the proposition that limitation from the specification are not to be read into claims has to do with Applicants stated that a DSP is more sophisticated than a microcontroller. Applicants did not claim, nor it is present in specification that the system in question use a less sophisticated or more sophisticated item, as related to a micro controller. Therefore, the rejection as written stands.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).